

**§ 12-79 ARKANSAS HAZARDOUS AND
TOXIC MATERIALS EMERGENCY NOTIFICATION ACT**

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12-79-101. Title.

This chapter may be known and cited as the "Arkansas Hazardous and Toxic Materials Emergency Notification Act".

12-79-102. Creation.

Because of the existing and increasing possibility of a major disaster or emergency from the release of hazardous and toxic substances into the environment while in transport, during manufacturing, and in storage, and because of the immediate need to notify state and local emergency response and recovery forces and other governmental entities mandated to perform certain actions related to a release of hazardous or toxic substances into the environment, it is found and declared to be necessary to:

- (1) Create within the Arkansas Department of Emergency Management a system to notify local, state, and federal emergency response and recovery forces and those other governmental and private sector entities with a mandated responsibility for emergency services; and
- (2) Require any business, manufacturer, refiner, retailer, wholesaler, transporter in the private sector, or governmental entity at the local, state, or federal level to report as soon as possible any known incident involving the release of hazardous and toxic materials into the environment which requires, or may require, emergency response or recovery actions by public safety forces of local or state governmental entities, including volunteer emergency services such as, but not limited to, firefighters, law enforcement, emergency medical services, and other first responders.

12-79-103. Definitions.

As used in this chapter:

- (1) "Director" means the Director of the Arkansas Department of Emergency Management established under the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq.;
- (2) "Fixed facility" means any refinery, factory, storage site, assembly plant, warehouse, wholesaler, retailer, or other facility which receives, stores, processes, or ships hazardous and toxic materials;
- (3) "Hazardous and toxic materials" means:
 - (A) Those substances, except natural gas, manufactured, refined, or found in their natural state which, when released into the environment, by any means, have an immediate or potential threat to human, animal, or plant life and meet other criteria established under federal regulations, guidelines, or laws defining hazardous and toxic substances in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce, and which is designated as "hazardous material" in regulations prescribed by the United States Secretary of Transportation under Title 49 of the Code of Federal Regulations; and
 - (B) Any other substance or pollutant designated by regulations of the director promulgated under this chapter;
- (4) "HAZMAT" means the abbreviation of "hazardous and toxic materials";
- (5) "Incident" or "accident" means the spilling, leaking, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of hazardous and toxic materials into the environment;

- (6) "System for notification" means those communications facilities currently existing, or that may be later established, for direction, warning, and control of emergency response and recovery forces at the federal, state, and local levels;
- (7) "Transport" means the movement of any hazardous and toxic material regardless of the mode of transportation from one place to another place and any loading, unloading, and storage incidental thereto; and
- (8) "Transporter" means any person, firm, association, partnership, corporation, or other legal entity who transports or ships in a motor vehicle, rail freight car, freight container, cargo tank, rail tank car, pipeline other than a natural gas pipeline, aircraft, vessel, or other means of transportation any hazardous and toxic materials as a common carrier, contract carrier, or carrier for private use.

12-79-104. HAZMAT incident or accident reporting system.

- (a) The Director of the Arkansas Department of Emergency Management shall:
 - (1) In cooperation with the State Emergency Response Commission, establish a HAZMAT incident or accident reporting system within the State Emergency Operations Center for disseminating information to the appropriate agencies and emergency first responders for any release of a hazardous and toxic material that might present either an immediate or potential threat to the safety, health, and welfare of the public; and
 - (2) Operate and maintain on a continuing basis emergency direction, control, and warning systems sufficient to meet the minimum requirements of this chapter.
- (b) The HAZMAT incident or accident reporting systems shall meet the minimum federal requirements specified in federal regulations and guidelines for hazardous and toxic materials emergency reporting and shall operate within the provisions established under the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., and the State of Arkansas Emergency Operations Plan to provide the most expeditious and practical means to notify state, local, and private sector entities assigned an emergency response or recovery role under this chapter.
- (c) Each agency, office, bureau, or commission of the State of Arkansas or its political subdivisions having a role or responsibility for HAZMAT planning, response, recovery, or mitigation, or providing public safety services or having regulatory or oversight authority shall establish guidelines and procedures to ensure prompt and accurate reporting of any accident, incident, or known or suspected release of toxic or hazardous materials within the State of Arkansas in violation of any state or federal environmental or health protective statutes, regulations, or guidelines.

12-79-105. Accidents or incidents.

Any fixed facility operator or any transporter involved in an accident or incident during refining, manufacturing, processing, storage, loading, unloading, transporting, or a related activity which involves the release of hazardous and toxic materials into the environment or any public safety emergency first responders from the local, state, or federal level, who have confirmed that the incident or accident has not been previously reported to the State Emergency Operations Center shall report immediately, by telephone, radio, or the most expeditious means available to the center any incident or accident which:

- (1) Involves a fatality due to fire, explosion, or exposure to any hazardous and toxic materials;

- (2) Results in the hospitalization of any person due to fire, explosion, or exposure to any hazardous and toxic materials;
- (3) Results in a continuing danger to life, health, or property at the place of the accident or incident; and
- (4) Results in the release of hazardous and toxic materials, in any amount, by any transporter onto public or private property, including roads, highways, or thoroughfares maintained by local, state, and federal government entities and upon regulated commerce rights-of-way.

12-79-106. Penalties.

Any person who pleads guilty or nolo contendere to or is found guilty of violating any provisions of this chapter or any regulation promulgated hereunder shall be guilty of a misdemeanor and be fined not more than five hundred dollars (\$500) per day of violation or imprisoned for not more than one (1) year, or both.